Fw: Item 21 Paso Robles Groundwater Basin for Hearing on May 7, 2013

Board of Supervisors to: Frank Mecham, Bruce Gibson, Adam Hill, Paul Teixeira, Debbie Arnold, Vicki Shelby, Cherie Aispuro, Hannah Miller, 05/06/2013 11:03 AM

Sent by: Fran Zohns
Cc: cr_board_clerk Clerk Recorder

----- Forwarded by Fran Zohns/BOS/COSLO on 05/06/2013 11:03 AM -----

From: Maria Lorca <maria7551@charter.net>
To: boardofsups@co.slo.ca.us
Date: 05/03/2013 04:02 PM
Subject: Item 21 Paso Robles Groundwater Basin for Hearing on May 7, 2013

Dear Supervisors,

How will it help people dependent upon ordinary wells if representatives for irrigated ag are allowed to form and control a California Water District ?

See California Water Code sections 34,000 and following. Section 35003 defines voting rights.

The votes are weighted according to the assessed valuation of property owned.

That would in effect give control of the basin to the people who have created the overdraft in the first place.

Rural residents and small parcel owners need to be protected and fairly represented in any structures set up for basin management .

Thank you for the opportunity to comment.

Maria Lorca
Creston

Item No. 21, Meeting Date: May 7, 2013
Presented By: Maria Lorca
Rec'd prior to the meeting & posted on: May 6, 2013

Fw: Paso Robles Groundwater Basin Management Plan

Board of Supervisors to: Frank Mecham, Bruce Gibson, Adam Hill, Paul Teixeira, Debbie Arnold, Vicki Shelby, Cherie Aispuro, Hannah Miller, 05/06/2013 11:03 AM

Sent by: Fran Zohns
Cc: cr_board_clerk Clerk Recorder

----- Forwarded by Fran Zohns/BOS/COSLO on 05/06/2013 11:03 AM -----

From: Brad Nave <bnave@navemd.com>
To: BoardOfSups@co.slo.ca.us
Date: 05/03/2013 08:01 PM
Subject: Paso Robles Groundwater Basin Management Plan

Dear Board of Supervisors:

RE: Paso Robles Groundwater Basin Management Plan

Please find attached word document for my letter I would like to submit to all of the supervisors since I will not be able to attend the May 7th Hearing...

Thanks you in advance for your time and energy on reading my letter and hearing this issue.

Sincerely,
Brad & Mary Nave

Text of letter is also in the body of this email as follows:

May 1, 2013

To the Board of Supervisors

Re: Include Item 21 for BoS hearing 5-7-13

May 7th Hearing of Board of Supervisors: Management for the Paso Robles Groundwater Basin

Unfortunately, I will be unable to attend the May 7th hearing but would like to submit my concerns and personal experiences regarding our declining well water levels at our rural home in East Templeton. Back in Sept of 2012 I submitted another written letter communicating our personal experience with our well and how we had to drop our pump to the bottom in order to access water (see below for copy).

I won't reiterate the entire details but suffice to say it is clear that our personal experience with

our well is becoming a more and more common theme for our 6400 or so rural land owners who depend on individual wells for their domestic water supply. It seems very apparent now with all the data, from the many personal experiences of well issues, from speaking to the professional well drilling companies, and from detailed studies of our groundwater basin, that we are pumping out more water than is being replenished over any stretch of the imagination. This seems to be a multifactor issues such as low rainfall, increased growth of residential and agricultural developments, and to a inequitable amount of water usage by agriculture development (apparently the vineyard wine making industry). However, the data seems to show that the rate of water usage, especially with the huge increase in Vineyard and Agricultural wet farming, is by far the largest consumer of this resource and that even with large rainfall we would not be able to replenish the groundwater basin in the end at current estimations.

Now I am very supportive of agriculture and wine making, and this was one of the nice attractions to our beautiful North County area. However, we must not neglect our duty as stewards of our resources and when such a resource such as water is clearly in overdraft, something needs to be done to address this situation. And I would stress, before all the lowly rural resident landowners find their relatively shallow wells drying up.

Close to my home on Almond Drive, there is a very large 700 plus acre wine/vineyard development well on its way surrounded by Creston, El Pomar, and S. El Pomar roads. I have seen the drilling of many large deep wells, preparing hundreds of acres for high-water requiring trellis vines, and several large reservoirs being constructed to hold thousand upon thousand gallons of water which will be pumped out of these deep wells. I have seen them using large water trucks spraying water on the dirt roads to keep dust down. There seems to be no apparent concern for water conservation in this situation.

I am certain that as this projects goes into full swing, our, relatively shallow well of a 320 or so feet will dry up that much sooner as we are all surely connected into this same underground water basin. And I know we are not alone in the our North County and in our East Templeton area as I have heard the stories of other residence having to drop wells or dig new wells as their existing ones have dried up. And some well owners have been monitoring their water levels and are showing consistent declines in water levels over the months and years. Our well, is also a case in point, as our pump was originally set at 250 when we purchased our home in 1996 and in 2007 the water level dropped below this point forcing us to drop the pump lower. Recent monitoring of our wells by Miller Drilling has shown the levels have continued to drop.

I think we are at a important point where the anecdotal and, even more telling, the scientific information and studies are telling us that we are in an overdraft situation that is unsustainable over the long haul. Further, and more importantly, we are being given an opportunity as residents, Agricultural Growers, and most importantly local Government officials and politicians, such as the Board of Supervisors, to act and move forward to lay down a sustainable plan.

I understand a bit about legal rights of landowners to access and use their groundwater, but I also have heard that in overdraft conditions, there are legal means to move forward to manage this problem. I urge you to look carefully at the clear data and evidence out there and hear the

concerns and fears of all your constituents that would like to move forward toward a equitable and sustainable solution.

Again, I thank all of the supervisors for taking the time to hear this issue and for your time and energy reading this letter.

Sincerely,
Brad & Mary Nave

Below is Letter I sent to the Board back in Sept 2012 with a more detailed description of our well situation.

September 24, 2012
Letter to the Board of Supervisors:

Dear Board of Supervisors:

Since my wife and I are unable to attend the meeting scheduled for 9/25/2012, please accept this written communication voicing our concern and call for action on the Paso Robles Groundwater issues:

My wife and I moved to the North County Templeton community in 1996, Although we love the rural agricultural environment, as well as the many vineyards, the water situation in 1996 did not seem to be an issue or it was not publicly discussed or disclosed. The well water report we received from Miller Drilling during our escrow in late 1996 showed a 320 foot well with a blow test of 35 GPM at 200 feet, and 75 GPM at 320 feet. The report concluded a final test result for a pump set at 252 feet having a 58 GPM capacity for 4 hours. It was also recorded that the standing water level after the completion of the well was 144 feet.

Being from out of the area and never owning any property using a well water source, we had no frame of reference about what this meant or its relative capacity as a water well. However, we were told by many, including Miller Drilling in 1996, that this was a very good well with a high capacity for a domestic rural dwelling on 10 acres of land. We were also told and heard many times back in 1996, that we were in a very good water area with, not only large underground water aquifer, but also of very good quality water which did not have any sulfur or other undesirable water conditions.

Over the next decade or so, we were blessed with great living in our Templeton area. Our economy and community blossomed and grew. There was much growth in business, real estate, and of course the wine industry as well as other areas. However, and in retrospect, it seems that our local governments, Paso Robles, Atascadero, and the County of San Luis Obispo, have been greatly negligent on managing this growth to not get ahead of our infrastructure and available vital resources such as water.

Our well began having problems and being unable to pull water up began in September 2007 . We called out Miller Drilling and were informed that our water levels have dropped significantly and our pump, at 250 feet which was fine for over a decade up until all the growth and development, was now no longer sitting in water. Of striking notice, is the drop of the standing water level from 144 at our well's completion to below the 250 foot of our pump: Over 100 feet. And it is likely even lower now as has been documented by a close neighbor's well.

Like many of our neighbors, we had to purchase a new larger capacity pump and drop it down deeper into the well. We did so and our pump currently sits at the bottom of the well at what I recall is about 320 feet. Once the water drops below this, our well will be dry and we will have to try and dig a deeper new well at significant cost. And if we are unsuccessful, we will have a home that is with out water and is basically worthless on the open market.

Whether worthless or substantially depressed, we will be contacting the county assessor to discuss re-assessment and lowering our property tax assessed value to account for this loss. As without a realistic water source, I do not think we'd be able to sell the property and its market value would be very heavily diminished if not worthless until this issue were addressed.

We are aware that the water levels in our aquifer are continuing to decline. Several close neighbors have had their wells run out and have drilled new wells. Further, monitoring of well data is also confirming this fact and that it seems that it is inevitable that our well will run out of water if nothing is done. Further exacerbating this issue is the unchecked growth of several new, very large Vineyards within a mile or two of our home. These located on the El Pomar and South El Pomar area show what appears to be 700 plus acres of new wine grapes being developed with what seems like 5-10 large deep wells being put in. I can only surmise that this will drastically increase the rate that our wells will dry up since they are pulling from the same aquifer and from a much deeper level.

Further, I see many vineyards which apparently have no conservatory perspective on their water usage: I see them spraying large amounts of water for frost control in cold times, and water trucks spraying down dirt roads for dust control, and large pumps running throughout the nights to fill up large reservoirs. I also, have friends in the vineyard industry who understand that head pruned crop can be dry farmed significantly. I understand private land owners and land rights to their underground water sources, but there must be some reasonable management of these resource to protect the areas and private land owners from large vineyards being allowed to tap in to this resource and pull out unchecked amounts of water which greatly exceeds their fair share based on a per acre basis, when we have a water crisis.

There are many issues to address and concerns and I am not educated on how all this comes in to play or how the County can manage this efficiently. However, I would like to propose that we figure out if we are really in a critical condition and if many North County rural homeowners, such as myself, are likely to run out of ground water largely due to over- and unchecked-utilization by much of the wine growers in our area. I do not want agriculture and wine growers to be unfairly burdened or control, but if we are really in a critical situation, there needs to be some type of reasonable regulation and control to help deal with this situation before it is to far gone, if it is not already so.

I appreciate your attention and welcome any contact.

Sincerely,
Brad and Mary Nave
Homeowners


Well letter2.doc

May 1, 2013

To the Board of Supervisors

Re: Include Item 21 for BoS hearing 5-7-13

May 7th Hearing of Board of Supervisors: Management for the Paso Robles Groundwater Basin

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of new wine grapes being developed with what seems like 5-10 large deep wells being put in. I can only surmise that this will drastically increase the rate that our wells will dry up since they are pulling from the same aquifer and from a much deeper level.

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I appreciate your attention and welcome any contact.

Sincerely,
Brad and Mary Nave
Homeowners

To: Frank Mecham/BOS/COSLO@Wings, Bruce Gibson/BOS/COSLO@Wings, Adam Hill/BOS/COSLO@Wings, Paul Teixeira/BOS/COSLO@Wings, Debbie Arnold/BOS/COSLO@Wings, Vicki Shelby/BOS/COSLO@Wings, Cherie
Cc: cr_board_clerk Clerk Recorder/ClerkRec/COSLO@Wings,
Bcc:
Subject: Fw: Contact Us (response #2328)
From: Board of Supervisors/BOS/COSLO - Monday 05/06/2013 11:03 AM
Sent by: Fran Zohns/BOS/COSLO

----- Forwarded by Fran Zohns/BOS/COSLO on 05/06/2013 11:03 AM -----

From: "Internet Webmaster" <webmaster@co.slo.ca.us>
To: "BoardOfSups@co.slo.ca.us" <BoardOfSups@co.slo.ca.us>
Date: 05/04/2013 03:16 PM
Subject: Contact Us (response #2328)

Contact Us (response #2328)

Survey Information

Site:	County of SLO
Page Title:	Contact Us
URL:	http://www.slocounty.ca.gov/bos/BOSContactUs.htm
Submission Time/Date:	5/4/2013 3:16:11 PM

Survey Response

Name:	george Tracy
Telephone Number:	
Email address:	gwtracy@aol.com
Comments or questions (8,192 characters max):	I urge everyone to support the establishment of a water control district for the Paso Robles basin. WE are running out of water because of the overdrafting of the aquifer. We need to rein in the exporting of our water by those who don't reside here.

Item No. 21, Meeting Date: May 7, 2013
Presented By: George Tracy
Rec'd prior to the meeting & posted on: May 6, 2013

Fw: Water?!

Board of Supervisors to: Frank Mecham, Bruce Gibson, Adam Hill, Paul Teixeira, Debbie Arnold, Vicki Shelby, Cherie Aispuro, Hannah Miller, 05/06/2013 11:04 AM

Sent by: Fran Zohns
Cc: cr_board_clerk Clerk Recorder

----- Forwarded by Fran Zohns/BOS/COSLO on 05/06/2013 11:04 AM -----

From: Kim Routh <kimrouth59@hotmail.com>
To: "boardofsups@co.slo.ca.us" <boardofsups@co.slo.ca.us>
Date: 05/05/2013 08:28 PM
Subject: FW: Water?!

May 5th, 2013

To our Board of Supervisors,

Water, we can't live without it. We can't grow crops without it. We can't raise livestock without it. As a community we can not exist without it. Our water table is dropping. Our wells are going dry as our neighbors pump 24/7 from their deep wells to their vineyards with out a thought as to our futures. Many don't even live here and as I recently discovered may not even be aware of the issue.

I'm asking you to NOT stick your heads in the sand and hope this situation does not reach critical during your time in office. It's already critical.

There needs to be some way of deterring water waste.

I don't have the solution. I wish that I did. I also wish I still had a functioning well in my front pasture to water my cattle...

Thank you for your time.

Kim Routh
Bar 7R Ranch
Paso Robles

Fw: Item 21 Paso Robles Basin

Board of Supervisors to: Frank Mecham, Bruce Gibson, Adam Hill, Paul Teixeira, Debbie Arnold, Vicki Shelby, Cherie Aispuro, Hannah Miller, 05/06/2013 11:04 AM

Sent by: Fran Zohns
Cc: cr_board_clerk Clerk Recorder

----- Forwarded by Fran Zohns/BOS/COSLO on 05/06/2013 11:04 AM -----

From: "Susan Harvey" <ifsusan@tcsn.net>
To: <boardofsups@co.slo.ca.us>
Cc: <fzohns@co.slo.ca.us>
Date: 05/05/2013 11:56 PM
Subject: Item 21 Paso Robles Basin

Please find attached our comments "Paso Basin Management 5-7-13" on Item 21 – the Paso Robles groundwater basin. We have also referenced our letter of March 18th and submit it for the record. Please contact me if you have any questions.

Thank you,

Susan Harvey
North County Watch

Susan A. Harvey

"Tell me, what is it you plan to do
with your one wild and precious life?"
from *"The Summer Day"*
by Mary Oliver

NCW BoS Paso Basin Management 5-7-13.pdf NCW BoS PR Basin nuisance 3-18-13.pdf

Item No. 21, Meeting Date: May 7, 2013
Presented By: Susan Harvey
Rec'd prior to the meeting & posted on: May 6, 2013

North County Watch

Looking Out Today For Tomorrow

Board of Supervisors
County of San Luis Obispo
San Luis Obispo, CA 93406
Via Email boardofsups@co.slo.ca.us
fzohns@co.slo.ca.us

May 6, 2013

RE: Item 21 Consideration of Management of Paso Groundwater Basin

Dear Chairman Texiera and Supervisors,

North County Watch is a 501 3c non-profit Public Benefit corporation. We are an all-volunteer organization committed to sustainable development in and around north San Luis Obispo County.

On March 18th we submitted a letter to your Board detailing the state of the Paso Robles groundwater basin and the importance of management of the basin. North County Watch supports a management district that fair and equitable allocation of water. We support Public Works' request for funds to retain a consultant to evaluate the appropriate groundwater management structures for the Paso groundwater basin. Analysis and direction of a management basin is an activity most appropriate to the public process under the direction of the county and adjunct to an analysis of other options.

Overdraft of the basin and its continued decline are matters of great urgency. Establishing an appropriate management district will take time. In our letter of March 18th, which we have attached for your review and for the record, we offered a list of possible actions that could begin to stop the decline now. We urge the Board to consider the following actions:

- Adopt an urgency interim plan for the equitable allocation of groundwater which protects the superior rights, per state law, of residential users, based on the health and safety of the residents, and their superior right to a clean, potable water supply.
- Enact an urgency moratorium restricting the installation of new wells to no greater than 6" casing.
- Enact an urgency interim ordinance requiring new and expanded water user provide liability insurance or bonding that guarantees that residential users' water supply and wells are maintained at current levels, current water quality and quantity.

North County Watch P.O. Box 455 Templeton, CA 93465
501(c)(3) nonprofit corporation (77-0576955)

Item No. 21, Meeting Date: May 7, 2013
Presented By: Susan Harvey
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- Enact an urgency interim ordinance regulating new plantings and expansion of irrigated ag and other water intensive uses in the affected basin which limits per parcel use of water to a sustainable level.
- Immediately enact an urgency moratorium on Alternate Review Program for reservoirs and ponds as described in LUO 22.52.080 based on significant environmental impacts to water resources.

Sincerely,

Susan Harvey, President

Attachment to email: North County Watch letter dated March 18, 2013

North County Watch P.O. Box 455 Templeton, CA 93465
501(c)(3) nonprofit corporation (77-0576955)

Item No. 21, Meeting Date: May 7, 2013
Presented By: Susan Harvey
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North County Watch P.O. Box 455 Templeton, CA 93465
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Presented By: Susan Harvey
Rec'd prior to the meeting & posted on: May 6, 2013

North County Watch

Looking Out Today For Tomorrow

March 18, 2013

Board of Supervisors
County of San Luis Obispo
San Luis Obispo, CA 93406
Via Email boardofsups@co.slo.ca.us

Re: County duty to manage the Paso Robles Groundwater Basin

Dear Chairman Teixeira and Supervisors,

North County Watch is a 501 3c non-profit Public Benefit corporation. We are an all-volunteer organization committed to sustainable development in and around north San Luis Obispo County.

CONDITION OF PASO ROBLES GROUNDWATER BASIN

In December 2012 the County released the latest results of its well monitoring of the Paso Robles Groundwater Basin. The hydrographs cover a thirty year period and are an average of several representative wells in a "subarea" of the basin. The attached hydrographs[1] for the Estrella, Shandon, and Creston subareas show the significant declines that have occurred.

Precipitation values are provided, which show that the groundwater declines continue in spite of the amount of rain that is received in the basin. The majority of the groundwater basin is in permanent decline.

[1] Although the Gabilan area is in decline, the data is based on only one well and the hydrograph is not included.

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The fact is the basin is in overdraft. Department of Water Resources Bulletin 118-Update 2003 defines "overdraft" as the condition of a ground water basin where the amount of water extracted exceeds the amount of ground water recharging the basin "over a period of years."

> Groundwater overdraft is defined as the condition of a groundwater basin or subbasin in which the amount of water withdrawn by pumping exceeds the amount of water that recharges the basin over a period of years, during which the water supply conditions approximate average conditions (DWR 1998). Overdraft can be characterized by groundwater levels that decline over a period of years and never fully recover, even in wet years. If overdraft continues for a number of years, significant adverse impacts may occur, including increased extraction costs, costs of well deepening or replacement, land subsidence, water quality degradation, and environmental impacts.[2]

Such a period of time must be long enough to produce a record that, when averaged, approximates the long-term average hydrologic conditions for the basin. The data from the hydrographs covers 30 years of well levels and irrefutably supports and authenticates the fact of overdraft.

Paso Robles Groundwater Basin Water Balance Review and Update (Fugro 2010) estimated the groundwater pumping total in 2009 to range from 94% (91,915 AFY) to 99% (96,781 AFY) of the perennial yield[3] for the entire basin. Perennial yield is estimated at 97,700 AFY for the entire basin[4]. [Note the attached graph that separates out the numbers for the Atascadero subbasin from the main basin.] We have no estimate of the increase in irrigated Ag in the Paso Basin through 2011. We understand that during 2012-2013, an additional 8,000 acres of vines are being planted. At a very conservative one acre foot per acre per year, these 8,000 acres will guarantee, even to the most skeptical, that the basin exceeds the safe perennial yield, therefore – OVERDRAFT.

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[2] DWR Bulletin 118-Update 2003 p. 96

[3] *Paso Robles Groundwater Basin Water Balance Review and Update (Fugro 2010*) The perennial yields of the Basin… were estimated during Phase II of the Paso Robles Groundwater Basin Study as 97,700… (Fugro 2005). The water balance calculation from 1998 to 2009 for water duty factor set No. 1 (which assumes a rural domestic water duty factor of 1.0 AFY/DU) shows an estimated total groundwater outflow in 2009 of 91,915 AF (equal to approximately 94% of the perennial yield). The water balance calculation for set No. 2 (rural domestic water factor of 1.7 AFY/DU) suggests an estimated total groundwater outflow in 2009 of 96,781 AF (or approximately 99% of the perennial yield). P. 11

[4] Although most of the discussion of basin numbers does not differentiate between the main Paso basin, which is designated in a Level of Severity lll and the Atascadero sub-basin which is not in overdraft, it is important to remember that based on 2006 numbers the safe perennial yield of the main basin is 80,600 AFY and the total demand is 73,928 AFY.

The Master Water Report[5] pages 4-177 through 4-178 and 4-187 through 4-188 shows future demand exceeding the safe yield.

The Paso Robles Groundwater Basin Resource Capacity Study, adopted February 2011, is an additional source for data. Restoring balance will not be easily accomplished and as the overdraft increases and continues, the safe yield in acre feet per year declines.

> However, when considering the balance of inflows and outflows over a long period of time, 97,700 AFY of water can be removed on average, with no long-term decrease in storage. If outflows over a longer term basis are greater than 97,700 acre feet per year, it is assumed that water cannot be replaced and the process of "mining" groundwater has occurred. Mining of groundwater means that the water removed can never be replaced. Outflows would have to be lower than the perennial yield in a future year(s) to the same degree that outflows exceeded the perennial yield in order for mining of groundwater to not occur.[6]

DUTY TO MANAGE THE BASIN AND ITS RESOURCES

The problem of overdraft of groundwater basins is not unique to the Paso basin. DWR Bulletin 118-Update 2003 estimates that statewide groundwaters are overdrafted by 1-2 Million AFY.[7] The Santa Maria basin offers an example of overdraft resulting in adjudication of the basin and the resulting turmoil. Adjudication will most likely permanently cede management of the basin to a water master rather than the County.

The evidence from decades of study of the basin portrays a basin in serious decline. In fact, we maintain that the county failed in its duty as manager of the basin to recognize that the basin was in a state of critical overdraft as long ago as 2005, if not earlier. DWR Bulletin 188-Update 2003 defines critical overdraft as:

> A basin is subject to critical conditions of overdraft when continuation of present water management practices would probably result in significant adverse overdraft-related environmental, social, or economic impacts.[8]

In its management role, the county has the duty to alleviate overdraft and the depletion of water resources, prevent waste and unreasonable water use and to maximize the beneficial use of the state's limited resource. The county's lack of affirmative water management policies has

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6 *Paso Robles Groundwater Basin Resource Capacity Study – Adopted February 2011* P. 4

7 DWR Bulletin 118-Update 2003 p.2

8 *Ibid.* P. 98

resulted in evidence of harm to residents and the environment that is serious, irreversible and cumulative.

The final finding[9] in the Todd Engineering report "Evaluation of Paso Robles Groundwater Basin Pumping: Water Year 2006" clearly states what is required for long-term sustainability in the basin. The report states in part:

> Given that agriculture accounts for two-thirds of pumping, regular updating of agricultural pumping (land use, cropping, and irrigation rate data) is essential to management of the groundwater resources for long-term sustainability.

Additional evidence of the County's failure to manage the basin can be found in land use policies that increase rural density and the failure to mandate timely updates to the basin's safe yield calculations. Further, the County does not require meters on wells nor prohibit the export of water from the basin. The alternative review option in the grading ordinance ignores impacts to the basin from agricultural ponds or reservoirs.

The Todd Engineering Report[10] includes the SLO County Planning Department assessment of "ultimate" residential build-out over the basin as 75% of all possible parcels and sets build-out pumping at "just over 37,000 AF." Pumping in the basin has already precluded a set aside of the required additional approximately 26,000 AF to accommodate build-out of 75% of existing parcels.

As a result of the County's deleterious and negligent failure to act, the County Board of Supervisors have created a public nuisance[11]. The nuisance is a threat to the health and safety of residential overliers of the basin, the destruction of environmental and public trust resources of the basin, and the economic impacts to private property and ag production from the loss of water resources.

The County is the sole manager of the basin and has recourse to abate the problem. "The public nuisance doctrine is aimed at the protection and redress of *community* interests and, at least in theory, embodies a kind of collective ideal of civil life which the courts have vindicated by equitable remedies since the beginning of the 16th century." (*People ex rel. Gallo v. Acuna*

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[9] Todd Engineering report "Evaluation of Paso Robles Groundwater Basin Pumping: Water Year 2006" (Published May 2009) p. 10

[10] *Ibid p.* 9

[11] "The elements 'of a cause of action for public nuisance include the existence of a duty and causation.' Public nuisance liability 'does not hinge on whether the defendant owns, possesses or controls the property, nor on whether he is in a position to abate the nuisance; the critical question is whether the defendant created or assisted in the creation of the nuisance.' " (*Melton v. Boustred* (2010) 183 Cal.App.4th 521, 542 [107 Cal.Rptr.3d 481], internal citations omitted.)

(1997) 14 Cal.4th 1090, 1103 (*Acuna*).) The expectation of clean, high quality groundwater is the standard of civil life for the overliers of the Paso basin and vital to "community interests".

Civil Code section 3480 provides: "A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal."

The nuisance is substantial and unreasonable.[12] The interference to the public from overdraft is evidenced, at the very least, by the need to increasingly lower pumps, or drill new wells, or the loss of one's home. These damages[13] have been well stated in the public record.

In addition, the US Geological Survey has reported on the intrusion of geothermal waters into the fresh water aquifer as the basin is depleted (just as salt water intrusion is a problem in over-drafted coastal aquifers.) (Presentation to WRAC January 2013)

The County has failed to abate the nuisance even in the face of years of evidence that the basin is threatened by the continuation of its water management and agricultural practices and so, the County assumes the risk of financial burden of the losses by the residential overliers and commercial and industrial and agricultural overliers who experience health and safety and financial harm from loss of use or the interference with the expectation of quiet enjoyment of their property. The County is at risk of creating a permanent or long lasting condition[14] of overdraft by its failure to manage the basin equitably for all users.

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[12] "Of course, not every interference with collective social interests constitutes a public nuisance. To qualify . . . the interference must be both substantial and unreasonable." (*People ex rel. Gallo, supra*, 14 Cal.4th at p. 1105.)

[13] "An essential element of a cause of action for nuisance is damage or injury." (*Helix Land Co., Inc. v. City of San Diego* (1978) 82 Cal.App.3d 932, 950 [147 Cal.Rptr. 683].)

[14] Restatement (Second) of Torts, beginning with Section 821B

1. A public nuisance is an unreasonable interference with a right common to the general public.
2. Circumstances that may sustain a holding that an interference with a public right is unreasonable include the following:
    a. whether the conduct involves a significant interference with the public health, the public safety, the public peace, the public comfort or the public convenience, or
    b. whether the conduct is proscribed by a statute, ordinance or administrative regulation, or
    c. whether the conduct is of a continuing nature or has produced a permanent or long lasting effect, and, as the actor knows or has reason to know, has a significant effect upon the public right.

PROTECTION OF PUBLIC TRUST RESOURCES

Further, the studies commissioned by the County have consistently failed to account for water resources required for the health and safeguarding of environmental resources. The cited water studies make it clear that the requirements of environmental resources have not been considered in the assessment of safe yield. The categories of users are consistently: Agricultural, Municipal, Small Community, Small Commercial, and Rural Domestic. In short, Public Trust Resources are ignored. Streams, springs and riparian areas are being de-watered by the drawdown of the basin. The ongoing Scott River litigation against Siskiyou County is all about the harmful impacts to riparian and public trust resources from groundwater pumping. The Scott River, like the Salinas River, is a navigable water body protected by the Public Trust Doctrine. Appendix E of DWR Bulletin 118-Update 2003[15] lists the State Water Resources Control Board beneficial use designations. These include the following:

- Preservation of Biological Habitats of Special Significance (BIOL) – Uses of water that support designated areas or habitats, such as established refuges, parks, sanctuaries, ecological reserves, or Areas of Special Biological Significance (ASBS), where the preservation or enhancement of natural resources requires special protection.
- Rare, Threatened, or Endangered Species (RARE) – Uses of water that support habitats necessary, at least in part, for the survival and successful maintenance or plant or animal species established under State or federal law as rare, threatened or endangered.
- Warm Freshwater Habitat (WARM) – Uses of water that support warmwater ecosystems including, but not limited to, preservation or enhancement of aquatic habitats, vegetation, fish, or wildlife, including invertebrates.
- Water Contact Recreation (REC-1) – Uses of water for recreational activities involving body contact with water, where ingestion of water is reasonably possible. These uses include, but are not limited to, swimming, wading, water-skiing, skin and scuba diving, surfing, white water activities, fishing, or use of natural hot springs.
- Wildlife Habitat (WILD) – Uses of water that support terrestrial ecosystems including, but not limited to, preservation and enhancement of terrestrial habitats, vegetation, wildlife (e.g., mammals, birds, reptiles, amphibians, invertebrates), or wildlife water and food sources.

Protection of public trust assets have consistently been ignored in consideration of basin requirements.

[15] P. 240

REVISION OF PROJECTIONS

Protecting public trust assets is an affirmative obligation. The Resource Capacity Study and other water assessments need to be revised and updated immediately to include water requirements for the protection of public trust assets and the beneficial uses listed.

Further, basin management recovery plans will necessarily be seriously flawed if they rely on projections for basin yield through 2025. The 2010 Basin Update qualifies the projections through 2025:

> The 15-year climate (i.e., annual precipitation) from 1994 to 2009 is also assumed to repeat itself from 2010 to 2025.[16]

There is abundant evidence that we are headed for much drier years.[17] County studies of the basin and projections of future use need to be immediately revised to include models for predicted droughts.

EXAMPLES OF ACTIONS

The County needs to act immediately to abate the nuisance created by its water management policies and its agricultural policies. Examples of actions the County can undertake include:

1. Immediately enact an urgency moratorium on Alternate Review Program for reservoirs and ponds as described in LUO 22.52.080 based on significant environmental impacts to water resources.

2. Enact an urgency interim ordinance regulating new plantings and expansion of irrigated ag and other water intensive uses in the affected basin which limits per parcel use of water to a sustainable level.

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[16] *Paso Robles Groundwater Basin Water Balance Review and Update (Fugro 2010)* P. 12

[17] Permanent climate conditions across the North American Southwest that are comparable to the worst mega drought in 1,000 years … Seager et al., Projections of declining surface water availability for the southwestern United States, Nature Climate Change, December 2012, page 5, last paragraph.

Abstract: http://www.nature.com/nclimate/journal/vaop/ncurrent/full/nclimate1787.html

NOAA: http://www.ldeo.columbia.edu/res/div/ocp/glodech/research11%20SW%20water%20surface.html

Earth Institute press release: http://blogs.ei.columbia.edu/2012/12/23/smaller-colorado-river-projected-for-coming-decades-study-says/

3. Require a hold harmless notification, similar to the Right to Farm notification, in the form of a recorded notice as part of the title process when land is sold in the basin noticing the buyer that the basin is in decline and the buyer should not rely on groundwater for intensive water uses.

4. Enact an urgency interim ordinance requiring new and expanded water user provide liability insurance or bonding that guarantees that residential users' water supply and wells are maintained at current levels, current water quality and quantity.

5. Enact an urgency moratorium restricting the installation of new wells to no greater than 6" casing.

6. Adopt an urgency interim plan for the equitable allocation of groundwater which protects the superior rights, per state law, of residential users, based on the health and safety of the residents, and their superior right to a clean, potable water supply.

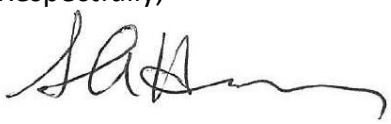
7. Enact an urgency moratorium on all agricultural overhead irrigation, including for frost protection measures.

8. Enact an urgency moratorium banning construction of all reservoirs for the storage of water for irrigation purposes.

9. Safeguard public trust assets by updating its water assessment use to include environmental and natural resource requirements.

10. Prohibit the export of water from the basin.

Respectfully,



Susan Harvey, President

Attachments: Hydrographs for Shandon, Creston, and Estrella

CC: Paavo Ogren, Director, County Public Works
Paso Robles Groundwater Basin Blue Ribbon Committee

Attachment 2

Sub-Area WSE Trend Analysis

Mon. Entity: The County of San Luis Obispo, CA

Date: 11/15/2012

Sub-Area Information	
Sub-Area	Estrella
Basin Name	Paso Robles

Sub-Area Well Records	
Period of Record	1977-2012
Num. BMO Wells	6

Report Information	
Report Start Year	1981
Period of Record	1981-2012

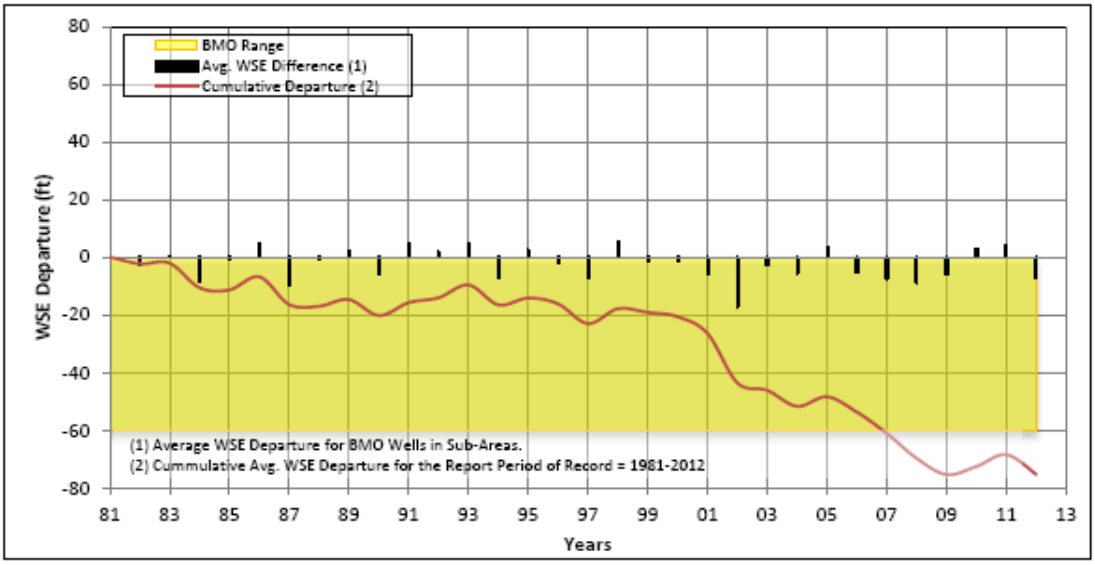
Raingage Information	
Raingage Name	Atas. Mutual Water # 34
Raingage Elev.	835.00 ft

Raingage Records	
Period of Record	1928-2012
Average Precip.	17.77 in

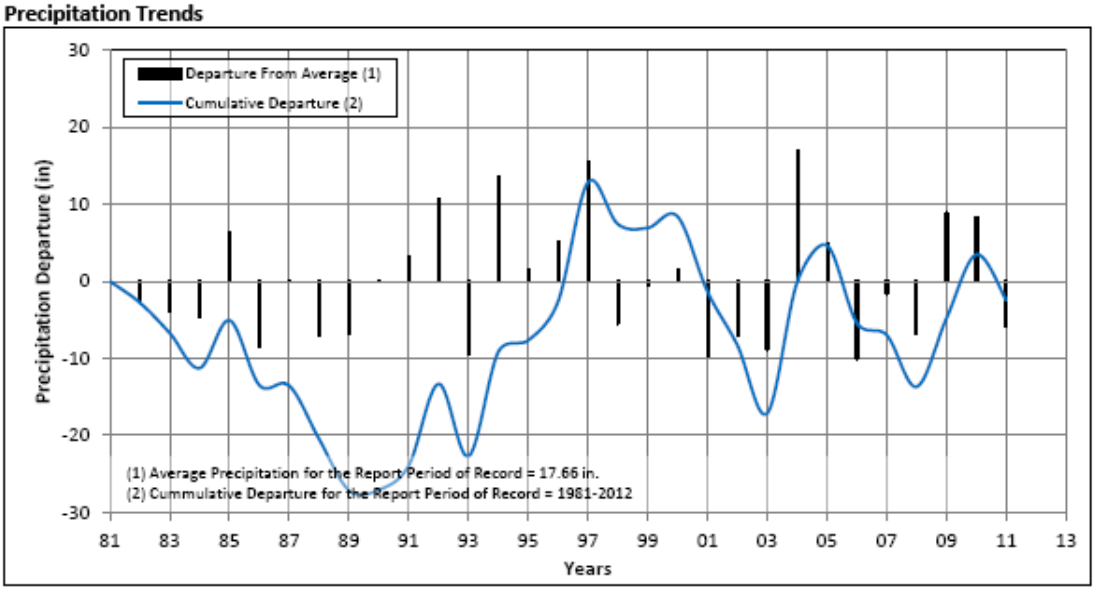
Trend Analysis Results	
BMO Target[1)]	(60.00 ft)
2012 CD	(75.35 ft)

NOTES: 1) The Basin Management Objective (BMO) is to maintain the Cummulative Departure (CD) above the BMO Target

Water Surface Elevation (WSE) Trends



Precipitation Trends



Item No. 21, Meeting Date: May 7, 2013
Presented By: Susan Harvey
Rec'd prior to the meeting & posted on: May 6, 2013

Attachment 2

Sub-Area WSE Trend Analysis

Mon. Entity	The County of San Luis Obispo, CA	Date	11/15/2012

Sub-Area Information	
Sub-Area	Creston
Basin Name	Paso Robles

Sub-Area Well Records	
Period of Record	1975-2012
Num. BMO Wells	4

Report Information	
Report Start Year	1981
Period of Record	1981-2012

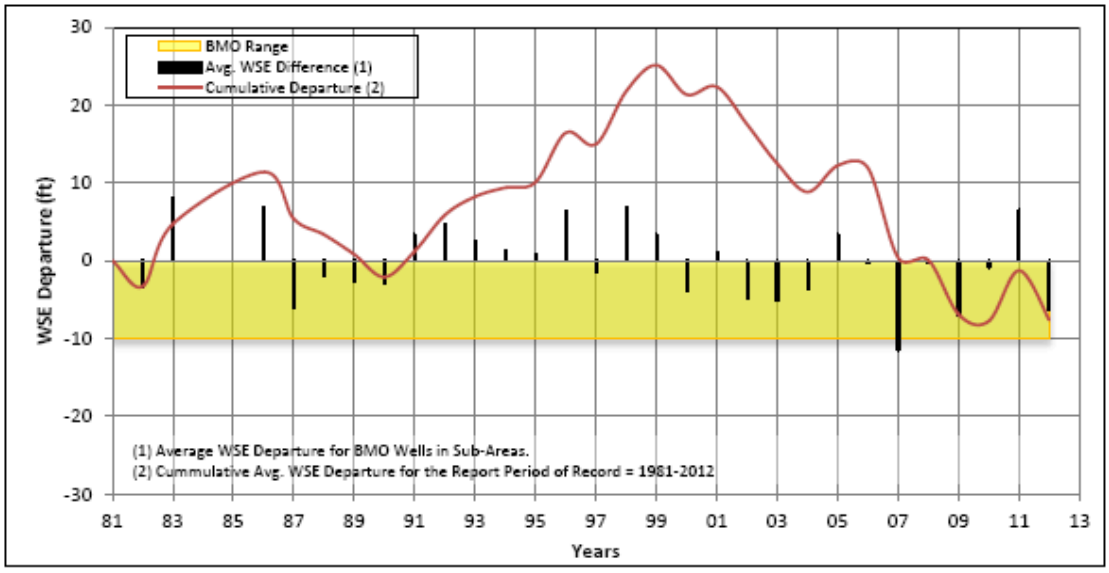
Raingage Information	
Raingage Name	Atas. Mutual Water # 34
Raingage Elev.	835.00 ft

Raingage Records	
Period of Record	1928-2012
Average Precip.	17.77 in

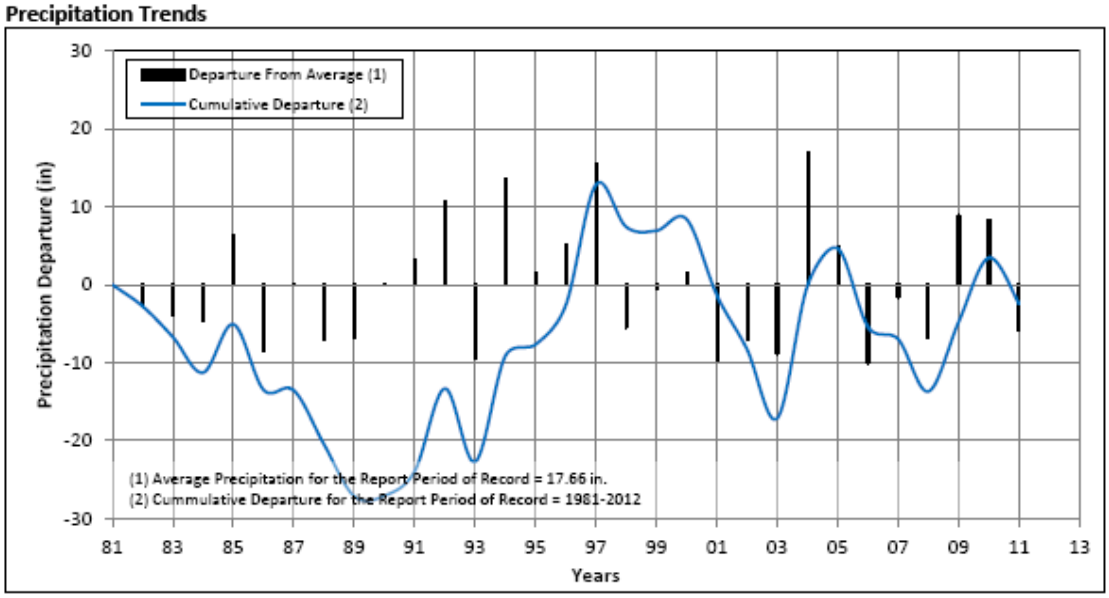
Trend Analysis Results	
BMO Target[1)]	(10.00 ft)
2012 CD	(7.62 ft)

NOTES: 1) The Basin Management Objective (BMO) is to maintain the Cummulative Departure (CD) above the BMO Target

Water Surface Elevation (WSE) Trends



Precipitation Trends



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Sub-Area WSE Trend Analysis

Mon. Entity: The County of San Luis Obispo, CA

Date: 11/15/2012

Sub-Area Information	
Sub-Area	Shandon
Basin Name	Paso Robles

Sub-Area Well Records	
Period of Record	1976-2012
Num. BMO Wells	4

Report Information	
Report Start Year	1981
Period of Record	1981-2012

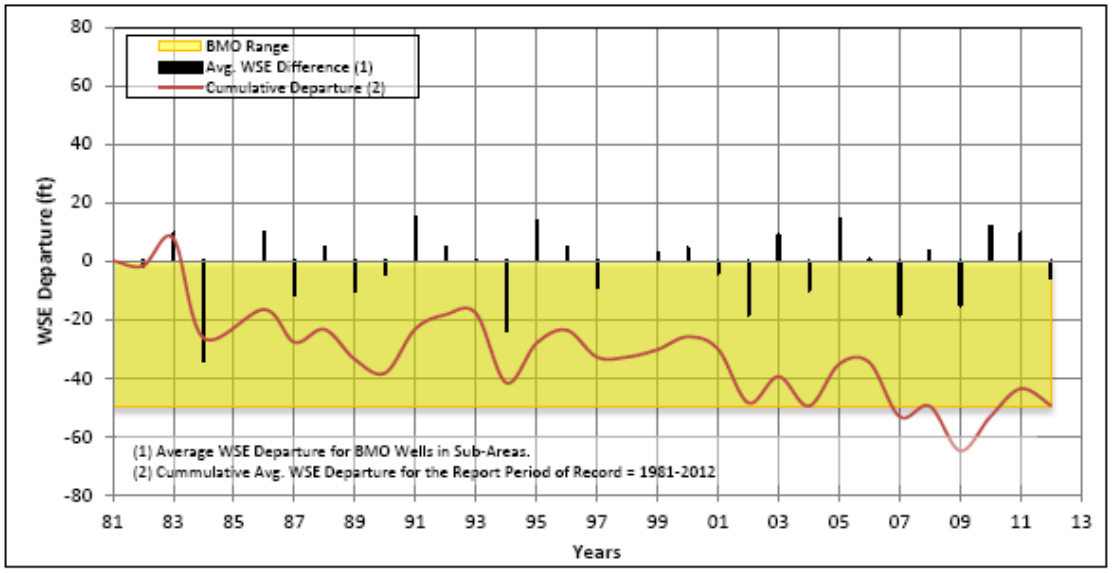
Raingage Information	
Raingage Name	Atas. Mutual Water # 34
Raingage Elev.	835.00 ft

Raingage Records	
Period of Record	1928-2012
Average Precip.	17.77 in

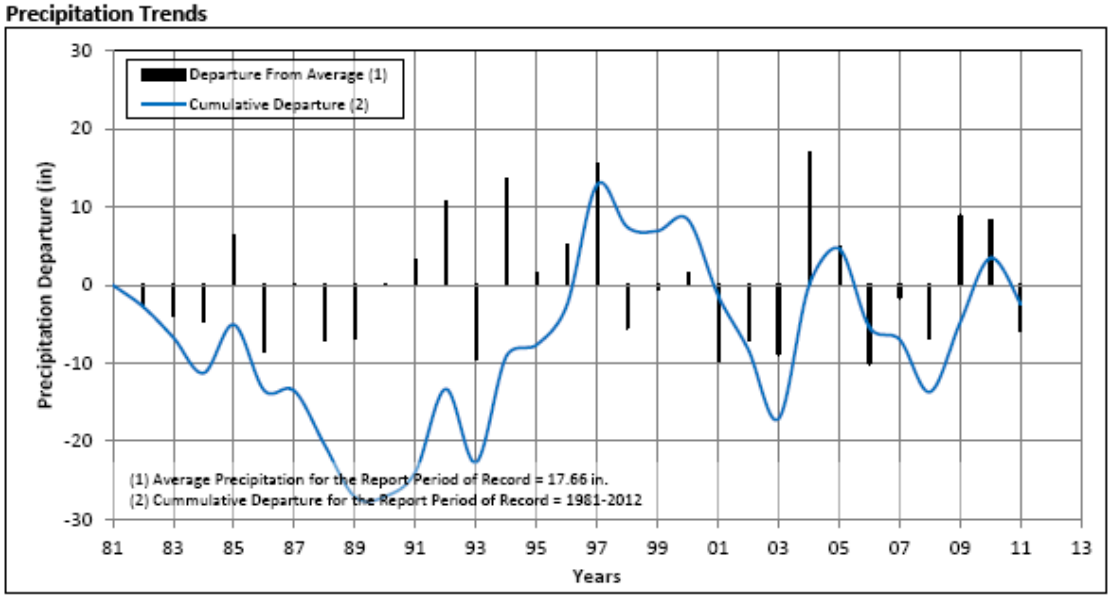
Trend Analysis Results	
BMO Target[1)]	(50.00 ft)
2012 CD	(49.50 ft)

NOTES: 1) The Basin Management Objective (BMO) is to maintain the Cummulative Departure (CD) above the BMO Target

Water Surface Elevation (WSE) Trends



Precipitation Trends



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Distribution of 2006 Water Demands to Subarea

			Demand Type				
Subarea	**Agriculture**	**Municipal**	**Small Community Systems**	**Small Commercial Systems**	**Rural Domestic**	**Total**	**Percentage**
Atascadero Subbasin	1,348	11,735	0	430	2,032	15,545	17%
Bradley	6,933	0	0	184	109	7,226	8%
Creston	9,936	0	0	37	2,338	12,311	14%
Estrella	23,111	3,930	0	1,603	5,433	34,077	38%
North Gabilan	1,758	0	0	0	50	1,808	2%
San Juan	5,347	0	0	0	105	5,452	6%
Shandon	9,896	0	0	69	1,205	11,170	12%
South Gabilan	1,671	0	0	0	213	1,884	2%
Total	**60,000**	**15,665**	**0**	**2,323**	**11,485**	**89,473**	**100%**
Percent of Total	**67%**	**18%**	**0%**	**3%**	**13%**	**100%**	
Total w/o Atascadero Subbasin	**58,652**	**3,930**	**0**	**1,893**	**9,453**	**73,928**	
Percent of Total w/o Atascadero Subbasin	**79%**	**5%**	**0%**	**3%**	**13%**	**100%**	

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Fw: Ground water basin

Board of Supervisors to: Frank Mecham, Bruce Gibson, Adam Hill, Paul Teixeira, Debbie Arnold, Vicki Shelby, Cherie Aispuro, Hannah Miller, 05/06/2013 11:07 AM

Sent by: Fran Zohns
Cc: cr_board_clerk Clerk Recorder

----- Forwarded by Fran Zohns/BOS/COSLO on 05/06/2013 11:04 AM -----

From: Gail Tannehill <gailtannehill@yahoo.com>
To: "boardofsups@co.slo.ca.us" <boardofsups@co.slo.ca.us>
Date: 05/06/2013 09:45 AM
Subject: Fw: Ground water basin

----- Forwarded Message -----
From: Gail Tannehill <gailtannehill@yahoo.com>
To: "boardofsups@ca.slo.ca.us" <boardofsups@ca.slo.ca.us>
Sent: Monday, May 6, 2013 9:43 AM
Subject: Ground water basin

SLO Board of Supervisors,
I am a very concerned citizen on the subject of our declining ground water basin. I live on the Dresser Ranch east of Paso Robles and my 450 foot well has gone dry. I will have to drill another $25,000.00 well down to 800 feet to get water for my home. This has happened in the last couple years since Cass Vineyards has put in thousands of grapes as well as other vineyards in the area. My fear is that the entire water basin will be gone at the rate this water is disappearing, Please take these concerns seriously an begin restricting this water usage by the Vineyards.
Thank you,
Gail Tannehill-LLoyd

Item No. 21, Meeting Date: May 7, 2013
Presented By: Gail Tannehill-Lloyd
Rec'd prior to the meeting & posted on: May 6, 2013